

**REMARKS**

Applicant respectfully traverses the 35 U.S.C. § 112, first paragraph, rejection of claims 25-46 and 50-58 for allegedly failing to comply with the written description requirement. The Examiner alleges that the limitation “requests an ECU or the device that has the failure to provide details regarding the failure and proceeds to collect the details regarding the failure from the ECU of the device that has the failure” was not described in the specification. Specifically, the Examiner alleges that this limitation is not found in paragraph [0095] as noted in the previous Reply to Office Action. The claim feature at issue correctly reads: “requests an ECU of the device that has the failure . . .” and not “requests an ECU or the device that has the failure . . .” as misquoted by the Examiner. In addition, assuming *arguendo* that this limitation is not disclosed in paragraph [0095], this limitation is at least disclosed on pg. 27, ll. 10-31 and in Fig. 6 of the as-filed specification. The as-filed specification on pg. 27, ll. 10-17 and in Fig. 6 discloses that, in step G11, the gateway ECU requests each ECU to output failure information. The as-filed specification on pg. 27, ll. 27-31 and in Fig. 6 discloses that, in step G12, the gateway ECU obtains failure information from each ECU.

Applicant respectfully traverses the 35 U.S.C. § 112, second paragraph, rejection of claim 44, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner alleges that the written description fails to disclose the corresponding structure, material, or acts for the limitation discussed above. Again, Applicant points the Examiner to pg. 27, ll. 10-31 and Fig. 6 of the as-filed specification of the as-filed specification.

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 25-29, 34-36, 39-46, and 50-58 over US 2002/0044049 to Saito et al. (“Saito”) in view of US 6,330,499 to Chou et al. (“Chou”). To establish a prima facie case of obviousness, the Examiner first must show that the prior art references teach or suggest all of the claim limitations. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See also M.P.E.P. § 2143. The Examiner also must show that there is some suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references. See *In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998). See also M.P.E.P. § 2143.

The Examiner argues that Saito discloses a vehicular diagnostic method that detects occurrence of a failure in a vehicle, transmitting failure information specifying the failure from the vehicle to a communication center, preparing countermeasure information for the failure, and transmitting the countermeasure information from the communication center to the vehicle. The Examiner admits that Saito does not disclose detecting and transmitting second failure information, but argues that Chou discloses this feature.

Chou, however, does not disclose determining whether a data volume of the second failure information is equal to or larger than a predetermined information volume and dividing the second failure information into plural pieces of the information such that each piece has the predetermined information volume when the data volume of the second failure information is equal to or larger than the predetermined information volume, as recited in amended independent claim 25, 40, 44, 50, and 55. This feature is disclosed at least on pg. 28, ll. 14-19 of the as-filed specification and in step G14 of

Fig. 6. In contrast, the in-vehicle system disclosed in Chou collects and provides additional vehicle information as requested by the server.

Applicant also respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 30-33 and 37-38 over Saito in view of Chou and further in view of EP 0383593 to Asano et al. ("Asano"). The Examiner relies on Asano to disclose determining whether the vehicle is running, wherein the collection of the details regarding the failure for transmission in the second failure information is prohibited when it is determined that the vehicle is running and proceeds when it is determined that the vehicle is not running; performing a predetermined operation by the user to collect the details regarding the failure for transmission in the second failure information; and transmitting the second failure information at predetermined intervals of time. Asano, however, fails to disclose or suggest determining whether a data volume of the second failure information is equal to or larger than a predetermined information volume, and dividing the second failure information into plural pieces of the information such that each piece has the predetermined information volume when the data volume of the second failure information is equal to or larger than the predetermined information volume missing from Saito and Chou and recited in our amended independent claim 25, 40, 44, 50, and 55.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 25-46 and 50-58 in condition for allowance. Applicant submits that the proposed amendments to claims 25, 40, 44, 50, and 55 do not raise new issues nor necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either

earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant requests entry of this Amendment, reconsideration of the application, and allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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